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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,568	03/01/2004	Sal Herman	Herman P-302	9874

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT PAPER NUMBER

3677

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/790,568	Applicant(s) HERMAN, SAL	
	Examiner Ruth C Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>05/21/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 1 and 3 are objected to because of the following informalities:
2. Lines 2-4 of claim 1 recite a downwardly slanting planar face plate with an actuating cam face plat member having a raise hip while lines 13-18 recite an actuating cam member including a downwardly slanting face plate and an integral raised hip depending cam section. This is consider a double inclusion and it is unclear whether the members in lines 2-4 are the same or different from the members recited in lines 13-18. For purpose of examination and in accordance with the description and drawings, the members recited in lines 2-4 are the same as the member disclosed in lines 13-18.
3. Regarding claim 1, the phrase "needle-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).
4. Claim 1 recites the limitation "the second member" in lines 10, 15, 22, 23 and 26, "the first member" in lines 11, 14, 21 and 24, "the suspender fastener" in lines 16 and 23, "said first and second members" in line 18 and "the complementary plates" between lines 24 and 25. There is insufficient antecedent basis for these limitations in the claim.
5. Claim 3, line 2, "two reinforcements" should be replaced with "securement fixtures".

Appropriate correction is required.

Information Disclosure Statement

6. The information disclosure statement filed 21 May 2004 has been considered for this Office Action.

Drawings

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 16. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawie et al. (US 4,463,482) in view of Hermann (US 4,901,408)

Hawie discloses an apparatus fastening suspenders to a garment (C. 1, L. 5-9). The apparatus comprises a fastener. The fastener includes an actuating cam member (22,23), at least one first clamping member (16) and at least one second back plate member (11). The actuating cam member urges downwardly onto the at least one first clamping member such that the first clamping member is clamped into place against the at least one second back plate member. The second back plate member is pivotally attached to the first clamping member by means of opposed side projections (19,20) that are confined within openings (between 14 and 12 and between 14 and 13) in flanges extending upwardly from the second back plate member (Figs. 1-3). The second back plate member being planar and having a plane (Figs. 1-3). The actuating cam member including a downwardly slanting substantially planar face plate (22) and an integral raised hip depending cam section (23) adjacent to the first member. The cam member is pivotally attached to the second member by means of opposed side projections (23) that are confined within the openings (24) of the flanges of the second

member. The actuating cam member exerts a sufficient force to maintain the suspender fastener in a closed position in operation (Fig. 2). The first and second members have securement fixtures (30,34) attached thereto on the surfaces facing one another and the securement fixtures having complementary male and female portions that come together and cooperate when in a closed position (Figs. 1-3). Hawie fail to disclose a needle post in the first clamping member and an opening in the second clamping member that receives the needle post. However, Hermann teaches an apparatus fastening suspenders to a garment (C. 1, L. 6 and 7). The apparatus comprises a fastener (78). The fastener includes an actuating cam member (70), at least one first clamping member (66) and at least one second back plate member (64). The actuating cam member urges downwardly onto the at least one first clamping member such that the first clamping member is clamped into place against the at least one second back plate member (Fig. 2e). The first clamping member having a needle post (74) attached thereto extending towards the second back plate member in a complementary relation (Fig. 2e). The second back plate member is pivotally attached to the first clamping member by means of opposed side projections that are confined within openings in flanges extending upwardly from the second back plate member (Fig. 2e). The second member has an opening therein for receiving the needle post attached to the first member (Fig. 2e). The second back plate member being planar and having a plane (Fig. 2e). The actuating cam member including a substantially planar face plate and an integral raised hip depending cam section adjacent to the first member. The cam member is pivotally attached to the second member by means of opposed side

projections that are confined within the openings of the flanges of the second member. The actuating cam member exerts a sufficient force to maintain the suspender fastener in a closed position in operation (C. 4, L. 54-65). The first and second members have securement fixtures attached thereto on the surfaces (80,82) facing one another and the securement fixtures having complementary male and female portions that come together and cooperate when in a closed position (C. 4, L. 60-65 and Fig. 2e). The needle post is being attached to the first member in a complementary relation to the opening in the second member (Fig. 2e). The opening extends through the securement fixture attached to the second member such that when the suspender fastener is in a closed position the post remains attached to the first member. The post extends through both securement fixtures and further extends through the garment being supported by being received within the opening in the second member whereby the fabric of the garment being supported is substantially held fixed (C. 4, L. 54-65 and Fig. 2e). The needle post distributes the weight bearing portion of the suspender fastener (C. 4, L. 60-65). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the needle post in the first clamping member and an opening in the second clamping member that receives the needle post as taught by Hermann in the device disclose by Hawie that has the slanting substantially planar face plate. Doing so, serves to distribute the weight bearing portion of the suspender fastener.

Hawie also discloses that:

- The second back plate member is pivotally connected to the first member by an actuating cam member pivotally attached to the first member over the second member as movable between a closed position in which both members contact and urge the second member against the first member to close the suspender fastener (Fig. 2) and an open position in which the suspender fastener is released to permit removal of the suspender fastener from the garment being supported (Fig. 1).

- The apparatus of claim 1, wherein the downwardly slanting face plate is slanting at an angle of from about 1 degree to about 40 degrees with respect to the plane of the second back plate member (Fig. 2).

Hermann also teaches providing at least two securement fixtures apart in order to provide more support over a broader area of the fabric of the garment. Hermann fails to teach that the first clamping member further comprises at least two posts. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide at least two needle post, since it has been held that mere duplication of essential working parts of a device involve only routine skill in the art. *In re Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Croasdale (US 821,466), Andresen (US 830,759), Gutmann (US 867,655), Hawie (US 2,219,991 and US 2,837,806), Painter (US 2,251,800), Oliver (US 2,382,658), Howie (US 4,463,482), Foster (US 5,377,391) and Ochsman (US 5,913,478) are cited to show state of the art with respect to fastener having an actuating cam member with a slanted surface.

Hermann (US 4,901,408) is cited to show state of the art with respect to a fastener having a needle post in one clamping member and an opening in another clamping member so that the opening receives the post.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or


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(Typed or printed name of person signing this certificate)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response has been transmitted by facsimile will cause further unnecessary delays in the processing of your application, duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
April 18, 2005